

Meeting of 2005-9-13 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 13, 2005 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Traci Hushbeck, City Clerk
 COL Sonny Uberti, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by the Pastor Chuck Pettigrew, Liberty Heights Christian Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Rex Givens, Ward Two
 Janice Drewry, Ward Three
 Keith Jackson, Ward Four
Robert Shanklin, Ward Five
Jeffrey Patton, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None

MEETING CALLED TO ORDER WITH INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION TO LAWTON AUTOMOBILE DEALERSHIP ASSOCIATION

Mayor Purcell recognized Gene Westbrook, a Drill Sergeant who volunteered to go to Iraq and train soldiers. He was severely wounded. He asked the audience for a round of applause for everything he has done for this country. Mayor Purcell presented Certificates of Appreciation to representatives from the Lawton Automobile Dealership Association for donating a van to the Westbrook family.

SIGNING FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Mr. Gary Jackson, representative for the Employer Support for Guard and Reserve Committee for the State of Oklahoma, stated in Oklahoma there are over 15,000 men and women who serve in the Guard and Reserve. The signing of the statement of support is in honor of those men and women who work for the City of Lawton. By signing the statement of support it says publicly that the City of Lawton supports those who serve. Mayor Purcell signed the statement of support.

PROCLAMATION FOR FAMILY DAY

Mayor Purcell proclaimed September 26th as Family Day, a day to eat dinner with your children and asked all citizens to participate in the observance.

AUDIENCE PARTICIPATION: None

CONSENT AGENDA: Councilmember Drewry requested separate consideration for item 2. Councilmember Shanklin requested separate consideration for items 11, 12 and 22.

MOVED by Patton, SECOND by Givens, to approve the Consent Agenda items as recommended with the exception of items 2, 11, 12 and 22. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Henry Monroe in the amount of \$373.81, Ethel Graham in the amount of \$240.00 and Jimmie and Berith Thompson in the amount of \$1,030.14. Exhibits: Legal Opinion/Recommendation; **Resolution No. 05-152.**

2. Consider the following damage claims recommended for denial: Javier Solis in the amount of \$1,950.00, Michael and Kelly Tennis in the amount of \$70.00 and Paul and Alice Elliott in the amount of \$67.50. Exhibits: Legal Opinions/Recommendations.

Councilmember Drewry stated Michael and Kelly Tennis had a problem with the city sewer line that backed up in the house, but it was on July 4th. The city crews did come out but it was several days later.

MOVED by Drewry, SECOND by Givens, to approve the claim of Michael and Kelly Tennis in the amount of \$70.00. AYE: Givens, Drewry, Jackson, Patton, Haywood, Warren, Shoemate. NAY: None. ABSTAIN: Shanklin. MOTION CARRIED.

Shanklin stated they have paid other claims like the one submitted by Mr. Solis, and he did not see an adjustment on the \$1,950.00.

Vincent stated staff would need to bring it back to reconsider, but when staff interviewed the plumber, he indicated that the service line was defective and had to be replaced. It wasn't until he dug up the tap and saw the line was cracked, that he called the city for assistance. The city did replace the crack in the joint, but it was not the cause of the defect in the service line.

Shanklin stated he would like to table this item.

Vincent stated they will look at this claim again and bring back an alternative number.

MOVED by Shanklin, SECOND by Patton, to table the claim of Javier Solis. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

Patton stated that Mr. And Mrs. Elliott called the plumber initially without notifying the City for the amount of \$67.50. He stated if this went to court, our burden of proof would probably fall short. He would like to pay the plumbing bill and will contact the Elliotts and let them know they need to contact the City first.

Vincent stated the Elliotts had this problem before and the claim was paid. Now they have it again, but failed to call the City.

MOVED by Patton, SECOND by Haywood, to approve the claim of Paul and Alice Elliott in the amount of \$67.50. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Givens, Drewry. NAY: Shoemate. MOTION CARRIED.

3. Consider authorizing the City Attorney to accept the sum of Fifteen Thousand Four Hundred Seventy Seven and 89/100 Dollars (\$15,477.89) for settlement of the City's subrogation interest in the personal injury case of Craig S. Lyman. Exhibits: None.

4. Consider setting a public hearing on October 11, 2005 at 6 o'clock pm in the City Council Chambers to hear any comments for or against the annexation of Quail Run Estates into City Limits. Exhibits: Location Map; Notice of Public Hearing

5. Consider awarding a professional services contract to Mackey Law Firm for the purpose of doing property research and authorize the Mayor and City Clerk to execute the contract. Exhibits: Bid Abstract, Professional Services Contract is on file in the City Clerk's office.

6. Consider adopting a Resolution authorizing the City Manager to waive utility application fees and deposits for the victims of a FEMA declared disaster and authorize the Mayor and City Clerk to execute the necessary documents. Exhibits: Resolution of Support 05-__.

7. Consider ratifying the City Manager's action in accepting and paying for a 50 year easement from the Bureau of Indian Affairs for the Kiowa-Comanche-Apache Intertribal Land Use Committee property that the City of Lawton needs for the right-of-way along NE Flower Mound Road, South of Rogers Lane. Exhibits: Lease on file in the City Clerk's Office.

8. Consider approving contracts with Karl Waldbauer of The Polka Kings, Joe Ragan of Oklahoma Panhandlers, Jonathan Maracle of Broken Walls, Jimi Towry of Tropikal Productions for Watusi and Panorama, and Richard Hight of Visual Impact and Johnny Summers as performers at the 2005 International Festival and authorize the Mayor

and City Clerk to execute the agreements. Exhibits: Contracts on file in City Clerk's office.

9. Consider approving contracts for School of the Arts, Fall 2005 Semester for Steven Scott Smith (\$ 630), Sherri Denning (\$ 630), Shana M. Shriver (\$ 315), and Amanda Boehm (\$ 270) faculty members for the project. Total amount for fall semester stipends is \$ 1,845.00. Exhibits: Contracts on file in City Clerk's office

10. Consider issuing a revocable permit to Dr. Rose Lepien for the construction of a maneuvering area for vehicles upon the street easement/right-of-way along the north side of Gore Boulevard to connect the parking areas for 1201 West Gore Boulevard. Exhibits: Application and site plan; Revocable Permit on File in City Clerk's Office.

11. Consider acknowledging receipt of a permit from the Oklahoma State Department of Environmental Quality for the construction of 7,803 linear feet of eight (8) inch gravity sewer line and 4,035 linear feet of twelve (12) inch PVC water line, 4,935 linear feet of eight (8) inch water line and all appurtenances to serve the Dove Creek Addition Part One, City of Lawton, Comanche County, Oklahoma. Exhibits: None.

Shanklin questioned how long this has been on our prioritized list.

Debra Jones, Acting Planning Director, stated Dove Creek is a new subdivision being constructed on the west side of 52nd Street. The developer installed the lines.

MOVED by Shanklin, SECOND by Warren, to acknowledge receipt of permit from the Oklahoma State Department of Environmental Quality to serve Dove Creek Addition Part One. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

12. Consider authorizing the Mayor to sign and execute the DEQ Consent Order, Case No. 05-306 for permit limit violations of ammonia discharged from the City of Lawton Wastewater Treatment Plant. Exhibits: Consent Order, Case No. 05-306 is on file in the City Clerk's Office.

Shanklin questioned if this item was in relation to a letter stating the city is being fined \$4,100.

Ihler stated that is a different issue. The problem is that they have been unable to remove enough ammonia. They are performing a pilot study over a period of one year to show to DEQ that they have a handle on the situation.

Shanklin stated after they spent \$60 million we still have a plant that is not up to snuff. He questioned if we were looking at some type of expenditure in the future out there if we can't cure the problem.

Ihler stated he will not know until they are done with the pilot study, but they believe it is an operational issue they can correct.

MOVED by Shanklin, SECOND by Warren, to authorize the Mayor to sign and execute the DEQ Consent Order, Case No. 05-306 for the discharge permit violations of ammonia at the City of Lawton Wastewater Treatment Plant. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

13. Consider rejecting bid proposals for the Animal Welfare Building Expansion Project #2004-14. Exhibits: None

14. Consider approving Change Order No. 1 for the NW Ashby Avenue & NW Ferris Avenue Street Reconstruction Project #2005-1 with A. E. Construction Co. Exhibits: Location Map.

15. Consider accepting the Lake Helen Fish Habitat and Access Improvement Phase II Project #2004-12 as constructed by A. E. Construction Co. and placing the Maintenance Bond into effect. Exhibits: None

16. Consider acknowledging completion of the Oklahoma Department of Transportation (ODOT) SE 45th/Lee Boulevard Signalization Project #2003-6, Project #STPY- 116A(092)TR, Job Piece No. 20751(04), as constructed by T&G Construction. Exhibits: None. Page 39

17. Consider approving Change No. 1 adding 60 days to the contract time and accepting the 2004 Sewer Liner Project #04-3 SSES as required in the DEQ Consent Order, Case No.02-397 for the Citywide Sewer Rehabilitation Program and placing the Maintenance Bond into effect. Exhibits: None.

18. Consider approving Change Order No. 2 for the NE Flower Mound Road (Gore Blvd. to Rogers Lane) Water & Sewer Lines Relocation Project 2004-9 with Davenport Construction. Exhibits: None.

19. Consider awarding a professional services contract to ZIA Corporation for the purpose of providing environmental engineering services for the City of Lawton and authorize the Mayor and City Clerk to execute the contract. Exhibits: Retainer Agreement for Professional Engineering Services.

20. Consider and take appropriate action concerning a request for a competitive bid process to allow for a portable ice skating rink concession to be located on 3rd Street and B Avenue near Library Plaza. Exhibits: Pictures of the ice skating rink in Oklahoma City, Oklahoma. Agreement to go out for bid.

21. Consider approving an amendment to the Agreement between the City of Lawton and Great Plains Improvement Foundation, Inc., dated August 24, 2004. Exhibits: The agreement between the City of Lawton and Great Plains Improvement Foundation, Inc., dated August 24, 2004 and the Amendment to the Agreement are available for review in the City Clerk's office.

22. Consider approving City Council Policy 3-3, a new policy on harassment; and authorize the Mayor to execute the same. Exhibits: City Council Policy 3-3.

Shanklin stated he spoke with a judge and two lawyers. On page 56 it says the Mayor is the person designated by the City to be the investigator of complaints of harassment against council members, appointed city officials and employees hired by the council. This is contrary to the city charter, the Mayor does not have any administrative duties other than to carry out what the council passes.

Vincent stated the council can authorize the Mayor to take an action, just as they did in the sexual harassment policy. This language is straight out of the sexual harassment policy and is appropriate if the council allows the Mayor to do this, that is why the policy must come before the council.

Shanklin stated they can throw the city charter out and do what they want.

Vincent stated the city charter states the Mayor will act at the direction of the council and this policy would be at the direction of the council.

Shanklin asked the Mayor if he wanted that authority. He thinks the council should be more involved in it than the Mayor.

Mayor Purcell stated if someone on the council is accused of harassment, who do you want to go to, that council member?

Shanklin stated the Mayor Pro Tem has more authority than the Mayor. The charter says the Mayor will have no administrative duties and can the council overrule the city charter?

Vincent stated the council can give the Mayor direction to take certain action.

Jackson questioned if this was considered an administrative duty.

Vincent stated this would be an investigatory duty, and they have had this type of investigation before.

Shanklin stated he remembered one they had in 1995 and he immediately jumped that gentleman out and questioned where he got that authority. He backed off because he did not have that authority.

Vincent stated they passed the policy after that and have had subsequent investigations. Basically, the Mayor does not have the authority to do anything on his own without council direction except in certain emergency situations.

Jackson stated that in the City Attorney's opinion, it is not an administrative duty as much as an investigative duty.

Vincent stated the Mayor cannot take any action, but will make a report to the council.

Mayor Purcell stated that he would not be conducting the investigation, an investigator would be hired just as they have done in the past.

Shanklin stated that it says that the Mayor may retain at his/her discretion an investigator who is not an official employee and is authorized into a contract without the advance approval of the council. He stated if Mr. Vincent stays with it and it is public it won't bother him.

Jim Scholes, Human Resources Director, stated the city had no harassment policy other than a sexual harassment policy. His division has received several calls looking for such a policy. There was a lot of legal work and many

hours put into the sexual harassment policy to make sure it was legal and this policy is mirrored after that policy.

Shanklin stated he does not want the City Attorney to give up some of the duties that are truly not the Mayors.

Mayor Purcell stated if he does not want the Mayor to have that duty, then designate someone else.

Shanklin stated he believes the Mayor Pro Tem has more authority when it comes to what they do at City Hall. The Mayor is the hand shaker.

MOVED by Shanklin, SECOND by Jackson, to take the policy back to make it a little cleaner. AYE: Jackson, Shanklin. NAY: Drewry, Patton, Warren, Shoemate, Givens. ABSTAIN: Haywood. MOTION FAILED.

MOVED by Warren, SECOND by Givens, to approve City Council Policy 3-3 as written.

Shanklin stated the City Council is giving up their authority. He is going to stay after it until the next election the Mayor runs. The Mayor has no administrative duties and he is not a negotiator.

Mayor Purcell stated he did not ask that this policy be brought to council, and asked who they would like to designate. The City Council does not want to appointment the Mayor Pro Tem and are there any other suggestions.

Jackson questioned that if the City Council is inclined to have a person investigate these problems, does it matter to the council if it is the Mayor or the Mayor Pro Tem. He understands the direction that Councilmember Shanklin is talking about because the eight Councilmembers are the ones who were elected to vote on the council floor. This should not be the duty of the Mayor. It is not an administrative duty and he believes it should be the duty of an elected official.

Givens stated the final say so on all this is still the City Council. The final report is given to the City Council in executive session and then the City Council will give direction on further processing and action if any to be taken.

Jackson questioned if the City Council has any heartache if they switch it to the Mayor Pro Tem.

Patton stated they are dealing with a harassment policy that specifically states claims that are against the council and he thinks if they have the Mayor, who is a city wide elected official, overseeing the investigation, it gives it a little more credibility. He does not see this as a conspiracy theory that the Mayor would take this and ram it down their throats. They are dealing with this one policy.

SUBSTITUTE MOTION by Jackson, SECOND by Shanklin to transfer the authority from the Mayor to the Mayor Pro Tem. AYE: Shanklin, Shoemate, Jackson. NAY: Patton, Warren, Givens, Drewry. ABSTAIN: Haywood. MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Patton, Warren, Shoemate, Givens, Drewry. NAY: Jackson. ABSTAIN: Shanklin, Haywood. MOTION CARRIED.

23. Consider approval of a resolution amending Resolution No. 01-102 revising the membership and duration of the Emergency Management Advisory Committee.

Exhibits: Proposed Resolution, Resolution No. 01-102 and Resolution No. 02-33.

24. Consider approving a resolution ratifying the City Manager s decision to send Lawton firefighters out of state to aid in Hurricane Katrina relief efforts; outlining method of compensation and disclaiming liability. Exhibits: Resolution No. 05-__.

25. Consider awarding professional services Agreement for Comport Network Services and Solutions (Comport) RFP Vendor Evaluation Services. Exhibits: Agreement on file in City Clerk s Office.

26. Consider awarding Copier Contract (RFPCL06-004). Exhibits: Abstract of bids and department recommendation.

27. Consider awarding contract for Aqueous Ammonia. Exhibits: Abstract of bids and department recommendation.

28. Consider awarding contract for Roll Off Container Filter & Polymer Activation System (CL06-003). Exhibits: Abstract of bids and department recommendation

29. Consider approving the following contract extensions: A) Arts & Entertainment Magazine (CL03-075), with ColorGraphics The Print Shop, of Lawton, Oklahoma Arts & Humanities; B) Upholster Damaged Seats (CL04-016), with Joanie s Upholstery, of Lawton, Oklahoma Arts & Humanities; C) Technical Support for International Festival (RFPCL03-074), with Journey Productions of Lawton, Oklahoma Arts & Humanities; D) Rental of Portable

Restrooms (CL04-002), with ARA Equipment Rentals of Lawton, Oklahoma Parks & Grounds; E) City Employee Accidental Death Ins. (RFPCL05-003), with Aon Consulting of Tulsa, Oklahoma Human Resources; F) Hardware/Software Support Agreement (RFPCL04-018), with Atlantic Tech Services of Richfield, Ohio MIS; G) Fire Hydrants (CL05-002), with Oklahoma Contractor s Supply of Oklahoma City, Oklahoma Water Distribution; H) Medical Director (CL03-076), Richard L. Campbell, M.D., Inc./Wichita Mountain Medical Fire Department; I) Elevator Maintenance (CL04-001), American Elevator Co., Inc. Police Technical Services; J) Refuse Containers (CL05-012), Wastequip Teem Solid Waste. Exhibits: None

30. Consider approving appointments to boards and commissions. Exhibits: Recommended List of Appointees.

31. Consider approval of payroll for the periods of August 15- 28, 2005. Exhibits: None.

NEW BUSINESS ITEMS:

32. Hold public hearings and adopt resolutions declaring the structures at 2011 NW Hoover Avenue and 1510 SW Washington Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public s health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Resolutions No 05-____; No 05-____; Summary documents with supporting photos. Reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

1510 SW Washington Avenue: Tony Griffith, Neighborhood Services Supervisor, presented photographs of the property. He stated the structure is unoccupied and unsecured. The structure has fire damage beyond repair. There have been no utilities since June 2001. It presents a health and safety risk to the community.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Warren, to approve **Resolution No. 05-156** and declare the structure at 1510 SW Washington to be dilapidated and a public nuisance. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

2011 NW Hoover: Griffith presented photographs of the property. He stated the structure is unoccupied. The owner has requested the city condemn the property to take advantage of the reduced tipping fees. There have been no utilities since October 2002.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Givens, SECOND by Warren, to approve **Resolution No. 05-157** and declare the structure at 2011 NW Hoover to be dilapidated and a public nuisance. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

33. Hold a public hearing and consider rescinding Ordinance No. 05-16 and adopt a new ordinance closing part of Roosevelt Avenue, part of SW 1st Street, the alley in Block 31, Airport Addition, and the alley in Block 32, Airport Addition and declaring an emergency. Exhibits: Ordinance No. 05-____ and Location Map.

Vincent stated there was a mistake in the legals on the other ordinance. The new ordinance needs to be readopted with the corrections.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Warren, to rescind Ordinance No. 05-16 and approve **Ordinance No. 05-72** waive the reading of the ordinance, read the title only and declare an emergency. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 05-72

An ordinance repealing Ordinance No. 05-16 and closing part of Roosevelt Avenue, Part of SW 1st Street, the alley in Block 31, Airport Addition, and the alley in Block 32, Airport Addition, more particularly described in Section One hereof, and declaring an emergency.

34. Receive bids for sale of \$1,500,000 General Obligation Bonds, Series 2005, for Economic and Community Development, and award the sale of bonds to the lowest bidder. Exhibits: None

Rick Endicott, Finance Director, stated a few weeks ago the City Council approved the sale date of today for bonds

in the amount of \$1.5 million and \$2.5 million. He stated Mike Prescott, Gary Bush and Keith McDonald were in attendance.

Mr. Prescott distributed a list of bids received on the general obligation tax bonds, series 2005. The city received five bids. He stated Fort Still National Bank was the low bid on the bonds with a true interest cost of 3.55724%. He stated this is a very good rate in today's market. He recommended that the council accept the bid from Fort Sill National Bank.

Shanklin questioned why the amounts from Fort Sill National Bank were higher across the board.

Mr. Prescott stated the basis of awarding the bid under statute is true interest cost, which is different than what you would see normally. It takes into account the time value of money and factors in all your payments. It shows that your effective interest rate is actually less than all the rest of the bids even though the net interest cost is higher. Under the statute for economic development bonds in Oklahoma, the city is required to award the bids on the lowest, true interest cost.

Gary Bush stated the \$155,135 premium will be deposited into a sinking fund and reduce the taxes on the first year on these bonds. That is money that the city will get over and above the \$1.5 million.

Shanklin questioned why they would do that.

Mr. Prescott stated they wanted the bonds that would get the true interest cost number down. Without that, the number would have been around 5%.

MOVED by Shanklin, SECOND by Jackson, to receive bids for the sale of \$1,500,000 General Obligation bonds, Series 2005 and award the sale to Fort Sill National Bank. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

35. Consideration and approval of an ordinance providing for the issuance of general obligation limited tax bonds in the sum of \$1,500,000 dollars by the City of Lawton, Oklahoma, authorized at an election duly called and held for such purpose; Prescribing form of bonds; Providing for registration thereof; Prescribing provisions for redemption of bonds; Designating bonds for purposes of certain provisions of the internal revenue code; Naming a paying agent and registrar; Approving a continuing disclosure agreement; Approving the official statement pertaining to the bonds; Providing for the levy of an annual tax not to exceed five mills for payment of principal and interest on the same; Fixing other details of the issue; And declaring an emergency. Exhibits: Ordinance No. 05-____.

Vincent stated this type of ordinance will take a second vote for the emergency clause.

MOVED by Givens, SECOND by Warren, to approve **Ordinance No. 05-73** waive the reading of the ordinance, read the title only and declare an emergency. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-73

An ordinance providing for the issuance of general obligation limited tax bonds in the sum of \$1,500,000 dollars by the City of Lawton, Oklahoma, authorized at an election duly called and held for such purpose; prescribing form of bonds; providing for registration thereof; prescribing provisions for redemption of bonds; designating bonds for purposes of certain provisions of the Internal Revenue Code; naming a paying agent and registrar; approving a continuing disclosure agreement; approving the official statement pertaining to the bonds; providing for the levy of an annual tax, not to exceed five mills per annum, for payment of principal and interest on the same; fixing other details of the issue; and declaring an emergency.

VOTE ON EMERGENCY CLAUSE: AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Emergency Clause

Section 11. That by reason of said City's need for additional higher education facilities and opportunities, it is deemed and hereby declared necessary for the immediate preservation of the peace, welfare, health and safety that said bonds be issued without delay, and to that end this Ordinance shall become operative immediately; wherefore an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately from and after its passage and approval.

36. Receive bids for sale of \$2,500,000 General Obligation Bonds, Series 2005, for Sewer System Improvements and award the sale of bonds to the lowest bidder. Exhibits: None

Mr. Prescott stated they received five bids on the general obligations bonds. The Baker Group was the low bid with a net interest cost of \$793,116.25 which computes to an average interest rate of 3.596084%. These were good bid for this environment for 15 year bonds. He recommended the council award the bid to The Baker Group.

MOVED by Shanklin, SECOND by Jackson, to receive bids for the sale of \$2,500,000 General Obligation bonds, Series 2005 and award the sale to The Baker Group. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

37. Consideration and approval of an ordinance providing for the issuance of general obligation limited tax bonds in the sum of \$2,500,000 dollars by the City of Lawton, Oklahoma, authorized at an election duly called and held for such purpose; Prescribing form of bonds; Providing for registration thereof; Prescribing provisions for redemption of bonds; Designating bonds for purposes of certain provisions of the internal revenue code; Naming a paying agent and registrar; Approving a continuing disclosure agreement; Approving the official statement pertaining to the bonds; Providing for the levy of an annual tax not to exceed five mills for payment of principal and interest on the same; Fixing other details of the issue; And declaring an emergency. Exhibits: Ordinance No. 05-____.

MOVED by Givens, SECOND by Drewry, to approve **Ordinance No. 05-74** waive the reading of the ordinance, read the title only and declare an emergency. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-74

An ordinance providing for the issuance of general obligation bonds in the sum of \$2,500,000 dollars by the City of Lawton, Oklahoma, authorized at an election duly called and held for such purpose; prescribing form of bonds; providing for registration thereof; prescribing provisions for redemption of bonds; designating bonds for purposes of certain provisions of the Internal Revenue Code; naming a paying agent and registrar; approving a continuing disclosure agreement; approving the official statement pertaining to the bonds; providing for the levy of an annual tax for payment of principal and interest on the same; fixing other details of the issue; and declaring an emergency.

VOTE ON EMERGENCY CLAUSE: AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Emergency Clause

Section 11. That by reason of said City being without adequate sanitary sewer system facilities, it is deemed and hereby declared necessary for the immediate preservation of the peace, welfare, health and safety that said bonds be issued without delay, and to that end this Ordinance shall become operative immediately; wherefore an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately from and after its passage and approval.

38. Consider approving an ordinance pertaining to finance and taxation amending Section 10-12-1205, Article 10-12, Chapter 10, Lawton City Code, 1995, by amending the period of the City of Lawton Hotel Tax to be effective for a period of ten (10) years commencing on May 1, 2006, and ending on April 30, 2016, subject to approval of the ordinance by majority of registered voters voting at an election held for such purpose as provided by law, providing for severability; providing for an effective date and providing that a copy of this ordinance be published in a newspaper of general circulation within the City of Lawton, Oklahoma. Exhibits: Ordinance No. 05-____,

Vincent stated the existing hotel/motel tax will expire in April. The Chamber has requested the tax be extended for a period of ten years instead of five. It will require a vote of the people.

MOVED by Givens, SECOND by Warren, to approve **Ordinance No. 05-75** waive the reading of the ordinance, read the title only and providing for an effective date. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-75

An ordinance pertaining to finance and taxation amending Section 10-12-1205, Article 10-12, Chapter 10, Lawton City Code, 1995, by amending the period of the City of Lawton hotel tax to be effective for a period of ten (10) years commencing on May 1, 2006, and ending on April 30, 2016, subject to approval of the ordinance by majority of registered voters voting at an election held for such purpose as provided by law; providing for severability; providing for an effective date and providing that a copy of this ordinance be published in a newspaper of general circulation within the city of Lawton, Oklahoma.

39. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of submitting to the registered qualified electors of said City the question of extending the existing five percent (5%) excise tax on rents received from the occupancy of motels and hotels; setting a ballot

title; and authorizing the Mayor to issue an election proclamation.
Proclamation

Exhibits: Resolution 05-____; Election

MOVED by Givens, SECOND by Drewry, to approve **Resolution No. 05-158**. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

40. Consider approving a resolution to amend the City Charter to establish residency requirements for City employees. Exhibits: Resolution 05-____,

Jackson stated this is an item he has been working on for about three months with the City Attorney's Office. He stated this is an opportunity to hire citizens within the city limits of Lawton in some of our prime paying jobs. He also believes it is good for emergency response to have fire rescue, police and general employees live within a general radius of the city of Lawton. In order to do this legally, voters must approve a minor charter change.

Shanklin questioned why it must be done this way.

Vincent stated that State Statute provides in Title 11, Section 22-127 that any city or town greater than a population of 5,000, the municipal governing body may designate which appointed officers and employees should reside in the municipality. But police officers, firefighters and other municipal employees need not be residents if it is a town bigger than 5,000, unless there is a charter provision that allows the council by ordinance to do residency requirements. There is that provision already for the City Manager and the City Attorney in the charter. It takes a charter change before they can do the ordinance.

Shanklin stated he is sorry they did not do this a long time ago.

Shoemate questioned how much this would affect the fire and police.

Jackson stated there would be no change with current employees with the City of Lawton. This only affects future hires.

Drewry questioned if it is a problem to hire within the city.

Bart Hadley, Fire Chief, stated currently the majority of their applicant pool is from outside the city of Lawton. He stated they do not do a very good job of recruiting specifically within the city of Lawton. They really don't have a budget for recruiting other than place an ad in the paper and post on the web site. His department is roughly 50-55% from out of town. With the current applicant list, they had 25 that went through the process and made it on to the hiring list which is good for a year. There were only a handful that were residents of Lawton.

Shanklin stated nine to be exact.

Hadley stated there were nine with Lawton addresses, but actually fewer than that lived within the city limits. He stated Pecan Valley has a Lawton address, but is not in the city limits. He stated if this requirement was put in place, applicants from outside the city limits may put in for the job and if offered a position they may move inside the city limits. That is speculation. He is concerned about reducing his applicant pool to where they do not have good candidates. If this was implemented he would request additional funds in the budget to do some real recruiting and encourage applicants from within the city of Lawton.

Warren stated that if someone had asked him three months ago if he supported this requirement, he would have said no.

MOVED by Warren, SECOND by Patton, to deny the request to amend the City Charter to establish residency requirements for City employees.

Jackson stated it would behoove them to make every opportunity possible for those people living within the city limits of Lawton, and paying taxes, to have some of the prime jobs. Firefighters and police officers are some of the highest paid positions in the state and he believes those applicants that live within a quick response time should have those jobs.

Shanklin stated that hypothetically, would they not think that some of that 54% or 55% that are already outside the city limits are making judgements as to the ability of applicants by where they live. Do you think that could occur.

Drewry stated she is not sure what Mr. Shanklin is saying.

Shanklin stated that the Chief does not judge these guys, there is a group that judges the applicants. Is the guy from Apache judging another guy from Apache. He is not interested in getting jobs for people in Norman, Hobart or other places. He is interested in jobs for Lawtonians because this is one of the best jobs you can get.

Drewry stated she does not want us to be in a situation where we can't hire someone if we don't have people who apply for the jobs.

Haywood clarified that applicants would have to move to Lawton if they are hired.

Vincent stated all that is happening at this meeting is they are giving the City Council the authority, if approved by the voters, to sometime in the future pass an ordinance setting parameters for residency. This does not establish residency requirements.

Shanklin stated they should not let some of this come back and bite them, because it will.

Patton stated if inappropriate things are happening in the Fire Department, the Chief should be looking into that and he would think some type of disciplinary action should be taken. No one should put up with that type of discrimination in any department, if this is truly happening.

Jackson stated it is truly happening. Any time you have a fire department that is 54%-55% percent, the police department and general employees that is 40% of people who live outside the city limits, there is no reason not to hire the citizens within the city limits.

Patton stated that if these jobs are out there, Lawtonians come and apply. Everyone is basically saying that they are all naive and stupid and there are people kicking out applicants because they live in Lawton. He stated he is not that stupid.

Jackson stated that is not what he is saying.

Patton stated it is wrong to discriminate against someone by their color, race, gender or where they live.

Jackson stated that he is saying he would prefer to hire people who live within a range for emergency response as well as live within the city of Lawton and pay taxes here.

Warren stated that it is interesting that for four months he and Councilmember Jackson sat in a room and preached to a bunch of people from the state level on down about how Lawton wants to be the regional hub of Southwest Oklahoma. So basically, we want all your stuff, but we don't want all your people working here. That is wrong.

Mayor Purcell questioned that if this passed, how do they know someone lives in Lawton. Does the HR police go check on the address? If they do go check and verify the person lives in Lawton, what happens if they move outside the city three months later. Are we going to fire them? He does not see how they are going to enforce it. Are they getting into something that is absolutely unenforceable.

Givens stated he would like to vote on the motion.

VOTE ON THE MOTION: AYE: Patton, Warren, Shoemate, Givens, Drewry. NAY: Shanklin, Haywood, Jackson. MOTION CARRIED.

41. Consider adopting a resolution setting the date for an election for the purpose of consideration of an amendment to the Lawton City Charter concerning residency requirements for City employees. Exhibits: Resolution 05-____,

This item was stricken.

42. Consider an ordinance amending Section 23-5-537, Article 23-5, Chapter 23, Lawton City Code, 1995, by increasing the fine for any individual convicted of the violation of allowing persons under the age of thirteen (13) from riding within truck bodies in space intended for merchandise, providing for severability and establish an effective date of November 1, 2005. Exhibits: Ordinance No. 05-____,

Vincent stated the State Legislature recently increased the fine for seat belt violations for children from \$10 to \$50 effective November 1st. Items 42 and 43 relate to our city belt violations relating to children increasing the fine to match the state code.

MOVED by Shanklin, SECOND by Drewry, to approve **Ordinance No. 05-76** waive the reading of the ordinance, read the title only and establish an effective date of November 1, 2005. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-76

An ordinance pertaining to vehicles and traffic amending Section 23-5-537, Article 23-5, Chapter 23, Lawton City Code, 1995, by increasing the fine for any individual convicted of allowing persons under the age of thirteen (13) from riding within truck bodies in space intended for merchandise, providing for severability, and establish an effective date of November 1, 2005.

43. Consider an ordinance amending Section 23-5-540, Article 23-5, Chapter 23, Lawton City Code, 1995, by establishing a fine for any individual convicted of violating the child passenger restraint system, providing for severability and establish an effective date of November 1, 2005. Exhibits: Ordinance No. 05-____,

Vincent stated this goes along with the fact that the state has increased the fine for child restraint violations. The Council just dealt with this issue with pick up trucks, and this would apply to other vehicles, raising the fine to \$50 effective November 1st.

MOVED by Drewry, SECOND by Shoemate, to approve **Ordinance No. 05-77** waive the reading of the ordinance, read the title only and establish an effective date of November 1, 2005. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-77

An ordinance pertaining to vehicles and traffic amending section 23-5-540, article 23-5, Chapter 23, Lawton City Code, 1995, by increasing the fine for violation of child passenger restraint system, providing for severability, and establish an effective date of November 1, 2005.

44. Consider approving an ordinance pertaining to business creating Sections 7-29-1-2901 through 7-29-1-2907, Division 7-29-1, Article 7-29, Chapter 7, Lawton City Code, 1995, by establishing requirement for permitting of indoor shooting ranges and regulations for construction and operation of indoor shooting ranges, providing for severability and declaring an emergency. Exhibits: Ordinance No. 05-____.

Vincent stated recently the City Planning Commission received a request for use permitted on review for a business to be located in the central business district to operate an indoor pistol range. Provisions are not provided in the code for any standards for development of pistol ranges. There are no locational requirements other than that type of activity could be authorized by use permitted on review in two or three different zoning districts. The Commission directed that staff prepare a proposed ordinance for presentation to the City Council requiring licensing of the business, developmental construction regulations and providing that it be limited to a specific zoning criteria, this being the industrial zones. The City Planning Commission did recommend forwarding the ordinance to the City Council for consideration.

MOVED by Warren, SECOND by Givens, to approve **Ordinance No. 05-78** waive the reading of the ordinance, read the title only and declare an emergency. AYE: Shanklin, Patton, Haywood, Warren, Givens, Drewry, Jackson. NAY: None. ABSENT: Shoemate. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-78

An ordinance pertaining to business creating Sections 7-29-1-2901 through 7-29-1-2907, Division 7-29-1, Article 7-29, Chapter 7, Lawton City Code, 1995, by establishing requirement for permitting of indoor shooting ranges and regulations for construction and operation of indoor shooting ranges, providing for severability and codification and declaring an emergency.

45. Discuss City Council desire to request Comanche County to call an election for 911 enhanced cell service. Exhibits: Letter from Councilmember Randy Warren and House Bill 1751.

Warren stated the City Council needs to act upon this item if they want it to be voted upon in the next election cycle in December. He stated he notified the County Commission that he was placing this item on the agenda so they could attend if they desired. This gives them the opportunity to collect a .50 cell phone charge and deposit into an account that will be used for equipment and things of that nature used in enhanced 911. If someone calls 911 using a cell phone, operators will be able to located where they are. This is just a request that will be sent on to the county and ask them to call the election, because state law requires it be a county election. This fee will be collected by the provider and that money is transferred to ASCOG who will divide between the entities within the county that provide 911 services. At present, that would be the county and the city.

Givens questioned if it was optional for the cell phone owner.

Warren stated no.

Shanklin questioned if it was a county wide vote.

Warren stated yes.

Shanklin questioned if this has been passed anywhere else.

Warren stated Stephens County is voting on this issue today.

Mayor Purcell stated there are a couple of counties that have passed this issue.

MOVED by Warren, SECOND by Haywood, to request Comanche County to call for an election for 911 enhanced cell service and take appropriate action. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Warren stated there were two events at Lake Helen over the past weekend and he felt it was a tremendous opportunity to see what we can do with Lake Helen.

Haywood stated he has been impressed by the compassion shown by Lawtonians to the people of New Orleans. He would like to thank those that have contributed money.

Shanklin stated he was told that three \$750 tickets were given for flipping cigarettes. He asked if someone could verify that information.

City Manager stated he would check on the issue.

Givens stated that with one ticket, all but \$250 was suspended by a substitute judge.

Shanklin stated there has been plenty of time to get a traffic study done at the casino on Gore. He questioned where they were on this issue.

Mayor Purcell stated the Comanche Tribe has done a study on that whole area.

Shoemate stated he has not seen the results of that study.

Shanklin stated there is a double stripe as you leave the intersection at Gore and 11th and go south, you then make a left turn into the Circle K which stops traffic into the intersection. Does the double stripe mean they cannot cross? Have we every given a ticket for that violation? He stated in the paper this morning there is an article about Central Junior High. He stated he has minutes of August 9, 1999 whereby the Mayor broke a tie and finally put the Central Junior High on Fort Sill Boulevard. To him it is hypocrisy, if he had been against it as strong as Mr. Warren and the Mayor he doesn't believe he would have showed.

Warren stated he was never against Central Junior High downtown. He was against including Central Junior High, the new building, along with city infrastructure and not using it as a separate item. He stated he is the one who put a sheet of paper on everyone's desk one night when they voted on the CIP that provided the money for Central Junior High rehab. Let's make sure we are all clear.

Shanklin questioned how he put something on a piece of paper that allowed Central Junior High to be built.

Warren stated it was about Central Junior High rehab, which is what the article in the paper is about.

Shanklin stated if the Mayor hadn't broke the tie they never would have built the junior high.

Warren stated the truth of the matter is that Central Junior High would have never been a school again. His only problem was including it with infrastructure.

Shanklin stated they were going to build it out at 53rd and Cache.

Drewry stated the Salvation Army is still in need of assistance, not items of clothing. There is a gentleman who has been working diligently for two weeks and he is now building shelves for all the items so they can be more organized. He is in need of lumber and assistance in building those shelves. She stated that Dan Mullins is underwriting an event to raise money for the Boy's and Girl's Club. It will be a performance from Edgar Cruz, a guitarist, and will be held on October 6th at McMahon Auditorium and tickets are \$15. The Boy's and Girl's Club now have over 1,000 children on their enrollment list. This organization is very important to our city.

COL Uberti thanked the City Council and the City of Lawton for their continued support during the welcome home

and departure ceremonies over the past weeks. They will be continuing over the next couple of months. He stated the BRAC Commission submitted their recommendation to the President last Thursday and all the recommendations affecting Fort Sill went forward without change from the Commission, but there are still a few more gates to go through.

Mayor Purcell distributed information he received from the U.S. Conference of Mayors regarding the adoption of a Sister City. He stated if the City Council is interested, please let him know. He stated he recently made a decision to waive the water connection and the deposit for a hurricane evacuee. He stated they had no authority to make the decision at that time, but the authority was confirmed with item #6 tonight.

Patton stated on October 14th the Lawton Public School Foundation is having a fundraiser breakfast at Golden Corral from 6:30 a.m. to 9:00 a.m. Cost is \$10. He stated you can pay at the door.

Mitchell distributed a summary of the BRAC Phase II final report. This is the last of three phases funded through the state Strategic Military Planning Commission. He stated if anyone would like to see the full copy he has it on CD Rom or booklet form. The report will be submitted to the state and it outlines future missions for the installation through 2050.

The Mayor and Council convened in executive session at 7:52 p.m. and reconvened in regular, open session at 9:08 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

46. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Mark Roy Collins vs. State of Oklahoma, et al., Case No. CIV-05-585-W, and if necessary, take appropriate action in open session. Exhibits: None

Vincent read the title of Item 46 shown above. He said the Council received a briefing on the case. No action is required.

47. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the damage claim for Juanita (Jane) P. Mireless, and if necessary, take appropriate action in open session. Exhibits: None

Vincent read the title of Item 47 shown above.

MOVED by Warren, SECOND by Shanklin, to adopt **Resolution 05-159** authorizing and directing the City Attorney to assist Juanita P. Mireless in filing a friendly suit in District Court of Comanche County Oklahoma against the City of Lawton and authorizing the City Attorney to confess judgment therein in the amount of \$8,500.00. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

48. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled The City of Lawton vs. Randy Brierton, Case No. CJ-2005-705 and The City of Lawton vs. Raymond Dye, Case No. CJ-2005-738, and if necessary, take appropriate action in open session. Exhibits: None

Vincent read the title of Item 48 shown above. He said the Council received an update on the status of the cases and the fact that the City Attorneys office has been in settlement negotiations and is now recommending settlement of these issues.

MOVED by Drewry, SECOND by Warren, to adopt Resolution No. 05-160 approving settlement agreements between the City of Lawton and International Association of Firefighters Local 1882 and Randy Paul Brierton and Local 1882 and Raymond Lee Dye directing the City Attorney to prepare and fill appropriate journal entries for the courts approval. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

49. Pursuant to Section 307B.1, Title 25, Oklahoma Statues, consider convening in executive session to discuss the evaluation review of Larry Mitchell, City Manager, and if necessary, take appropriate action in open session. Exhibits: None

Mayor Purcell read the title of Item 49 shown above. He stated they had a frank discussion of what the Council expected of Mr. Mitchell. He stated he spoke for the Council in that they are extremely happy in how he has been performing over the last six months. A written evaluation will be provided. No action was required in open session.

Givens stated he would like it to be noted that the Council did have a few recommendations and established some policies they would like Mr. Mitchell to pursue.

ADJOURNMENT

There being no further business to consider, the meeting adjourned at 9:13 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

ADJOURNMENT